

Serial No. 10/656,925  
60,130-1713  
03MRA0069CVS

### REMARKS

Applicant wishes to thank the Examiner for the detailed remarks and the second non-final office action after the withdrawal of finality. New claims 31-34 have been added. Claims 1-3, 6-8, 15, 16, 22-24, 26, and 30 have been amended. Claim 25 has been cancelled. Claims 1-10 and 12-33 are pending.

Claims 1-10 and 12-28 were rejected under 35 USC §103(a) as being unpatentable over *Duchemin* in view of *McGibbon et al.* and further in view of *Cowburn*. Applicant respectfully traverses these rejections as there is absolutely no teaching, suggestion, or motivation to even modify *Duchemin* in view of *McGibbon*. The Examiner admits that *Duchemin* does not teach wherein the leaf spring is a solid composite. The Examiner then states that *Davis et al.* teaches a solid leaf spring. **However, Davis is not referred to in the present rejection.** *Davis* was referred to in the previous rejection, but has now apparently been replaced by the *Cowburn* reference. As such, the rejection is unclear.

Nonetheless, the Examiner also suggests that *McGibbon* teaches a composite leaf spring. This proposed combination alone defeats the rejection as there is not even motivation to combine *Duchemin* in view of *McGibbon*. As previously discussed, the goal of *Duchemin* is to provide a light-weight metallic leaf spring which is conducive to heat treatment. [See col. 1, lines 23-25.] That is, an attempt to combine *Duchemin* (and for that matter *Davis*) with the composite spring of *McGibbon* would destroy the underlying goal of *Duchemin* because a composite material is not conducive to heat treatment. The only motivation to make the combination as proposed is by following the knowledge disclosed within the present invention. This is impermissible usage of hindsight in an attempt to recreate Applicant's device. The failure to provide a proper combination between *Duchemin* and *McGibbon* alone defeats the rejection and all claims are allowable for this reason.

The Examiner further admits that *Duchemin* does not even teach a mounting segment intermediate the forward and rearward leaf spring segments. The Examiner then suggests that *Cowburn* teaches a mounting segment (30) intermediate forward and rearward leaf spring segments. However, *Cowburn* discloses a spring which is arranged transverse to a vehicle center

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line. The Examiner's interpretation therefore cannot be supported and, in actuality, substantiates Applicant's contention that the Examiner is utilizing hindsight reasoning. The claims are therefore, in addition to the reasons above, allowable for this reason.


Claim 24 was rejected under 35 USC §103(a) as being unpatentable over *Duchemin* as modified above and further in view of *Constantinescu*. As also previously discussed, *Constantinescu* describes a box spring and the like for bedding and furniture. In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Under no just interpretation would *Constantinescu* be in Applicant's field of endeavor or be reasonably pertinent to the particular problem that the applicant has solved. As just one example, the very different weights involved would never lead a suspension engineer to investigate box spring mattress designs. *Constantinescu* is not analogous art to *Duchemin*, *McGibbon*, *Davis* or Applicant's invention. The proposed combination is improper.

Please charge \$220 to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds for 2 claims in excess of 20 and a one-month extension of time. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

  
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